United Nations A/HRC/RES/34/1

General Assembly

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Human Rights Council
Thirty-fourth session
27 February-24 March 2017
Agenda item 2

Resolution adopted by the Human Rights Council on 23 March 2017

34/1. Promoting reconciliation, accountability and human rights in Sri Lanka

The Human Rights Council,

Reaffirming the purposes and principles of the Charter of the United Nations,

Guided by the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant instruments,

Reaffirming Human Rights Council resolution 30/1 of 1 October 2015 on promoting reconciliation, accountability and human rights in Sri Lanka,

Recalling Human Rights Council resolutions 19/2 of 22 March 2012, 22/1 of 21 March 2013 and 25/1 of 27 March 2014,

Reaffirming that it is the responsibility of each State to ensure the full enjoyment of all human rights and fundamental freedoms of its entire population,

Reaffirming also its commitment to the sovereignty, independence, unity and territorial integrity of Sri Lanka,

Welcoming the visits made to Sri Lanka by the United Nations High Commissioner for Human Rights, from 6 to 9 February 2016, and by the Secretary-General, from 31 August to 2 September 2016,

Welcoming also the visit made by the Working Group on Enforced or Involuntary Disappearances from 9 to 18 November 2015, the advisory visits made by the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, the joint visit by the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment from 29 April to 7 May 2016, and the visit by the Special Rapporteur on minority issues from 10 to 20 October 2016,

Welcoming further the steps taken by the Government of Sri Lanka to implement Human Rights Council resolution 30/1, and recognizing in this context the need for further significant progress,

GE.17-05286(E)

Please recycle

1. *Takes note with appreciation* of the comprehensive report presented by the United Nations High Commissioner for Human Rights to the Human Rights Council at its thirty-fourth session,[1] as requested by the Council in its resolution 30/1, and requests the Government of Sri Lanka to implement fully the measures identified by the Council in its resolution 30/1 that are outstanding;

2. *Welcomes* the positive engagement of the Government of Sri Lanka with the High Commissioner and the Office of the High Commissioner since October 2015, and with relevant special procedure mandate holders, and encourages the continuation of that engagement in the promotion and protection of human rights and truth, justice, reconciliation and accountability in Sri Lanka;

3. *Requests* the Office of the High Commissioner and relevant special procedure mandate holders, in consultation with and with the concurrence of the Government of Sri Lanka, to strengthen their advice and technical assistance on the promotion and protection of human rights and truth, justice, reconciliation and accountability in Sri Lanka;

4. *Requests* the Office of the High Commissioner to continue to assess progress on the implementation of its recommendations and other relevant processes related to reconciliation, accountability and human rights in Sri Lanka, and to present a written update to the Human Rights Council at its thirty-seventh session, and a comprehensive report, followed by a discussion on the implementation of Council resolution 30/1, at its fortieth session.

56th meeting
23 March 2017

[Adopted without a vote.]

[1] A/HRC/34/20.

United Nations A/HRC/RES/34/2

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Agenda item 3

Resolution adopted by the Human Rights Council on 23 March 2017

34/2. Promotion of the enjoyment of the cultural rights of everyone and respect for cultural diversity

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Vienna Declaration and Programme of Action and all other relevant human rights instruments,

Recalling also all relevant resolutions of the General Assembly, the Commission on Human Rights and the Human Rights Council, including Assembly resolutions 64/81 of 7 December 2009 and 64/174 of 18 December 2009, and Council resolutions 10/23 of 26 March 2009, 14/9 of 18 June 2010, 17/15 of 17 June 2011, 19/6 of 22 March 2012, 20/11 of 5 July 2012, 23/10 of 13 June 2013, 25/19 of 28 March 2014, 28/9 of 26 March 2015 and 31/12 of 23 March 2016,

Noting the declarations within the United Nations system on cultural diversity and international cultural cooperation, in particular the Declaration of the Principles of International Cultural Cooperation and the Universal Declaration on Cultural Diversity, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization in 1966 and 2001, respectively,

Welcoming the increasing number of States parties to the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 20 October 2005 and that entered into force on 18 March 2007,

Convinced that international cooperation in promoting and encouraging respect for human rights and fundamental freedoms for all should be based on an understanding of the economic, social and cultural specificities of each country and the full realization and recognition of the universality of all human rights and the principles of freedom, justice, equality and non-discrimination,

Recognizing that cultural diversity and the pursuit of cultural development by all peoples and nations are a source of mutual enrichment for the cultural life of humankind,

Determined to treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis,

1. *Reaffirms* that cultural rights are an integral part of human rights, which are universal, indivisible, interrelated and interdependent;

2. *Recognizes* the right of everyone to take part in cultural life and to enjoy the benefits of scientific progress and its applications;

3. *Reaffirms* that, while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms;

4. *Recalls* that, as expressed in the Universal Declaration on Cultural Diversity, no one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor to limit their scope;

5. *Reaffirms* that States have the responsibility to promote and protect cultural rights, and that these rights should be guaranteed for all, without discrimination;

6. *Recognizes* that respect for the cultural diversity and cultural rights of all enhances cultural pluralism, contributing to a wider exchange of knowledge and understanding of cultural heritage and background, advancing the application and enjoyment of human rights throughout the world and fostering stable, friendly relations among peoples and nations worldwide;

7. *Also recognizes* that respect for cultural rights is essential for development, peace and the eradication of poverty, building social cohesion and the promotion of mutual respect, tolerance and understanding between individuals and groups, in all their diversity;

8. *Emphasizes* that the universal promotion and protection of human rights, including cultural rights, and respect for cultural diversity should reinforce each other;

9. *Takes note* of the report of the Special Rapporteur in the field of cultural rights submitted to the Human Rights Council;[1]

10. *Calls upon* all Governments to cooperate with and to assist the Special Rapporteur in the discharge of the mandate, to provide her with all the necessary information requested by her and to give serious consideration to responding favourably to her requests to visit their countries in order to enable her to fulfil her duties effectively;

11. *Requests* the United Nations High Commissioner for Human Rights to provide all the human and financial resources necessary for the effective fulfilment of the mandate by the Special Rapporteur;

12. *Requests* the Special Rapporteur to report regularly to the Human Rights Council and the General Assembly in accordance with their respective programmes of work;

[1] A/HRC/34/56.

13. *Decides* to continue its consideration of this matter under the same agenda item in accordance with its programme of work.

56th meeting
23 March 2017

[Adopted without a vote.]

United Nations A/HRC/RES/34/3

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Agenda item 3

Resolution adopted by the Human Rights Council on 23 March 2017

34/3. Mandate of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights

The Human Rights Council,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action and other relevant international human rights instruments,

Reaffirming all resolutions and decisions adopted by the Commission on Human Rights and the Human Rights Council on the effects of structural adjustment and economic reform policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights, the most recent being Council resolution 31/11 of 23 March 2016,

Reaffirming also Human Rights Council resolution S-10/1 of 23 February 2009 on the impact of the global economic and financial crises on the universal realization and effective enjoyment of human rights,

Recalling Human Rights Council resolutions 5/1, on institution-building of the Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, of 18 June 2007, and stressing that the mandate holder shall discharge his or her duties in accordance with those resolutions and the annexes thereto,

Bearing in mind paragraph 6 of General Assembly resolution 60/251 of 15 March 2006,

Stressing that one of the purposes of the United Nations is to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character,

Emphasizing that the World Conference on Human Rights agreed to call upon the international community to make all efforts to help to alleviate the external debt burden of developing countries in order to supplement the efforts of the Governments of such

countries to attain the full realization of the economic, social and cultural rights of their people,

Stressing the primacy of the means of implementation for the 2030 Agenda for Sustainable Development, and in this regard underlining the fundamental principles of international cooperation, which are pivotal for the practical achievement of the Sustainable Development Goals,

Stressing also the determination expressed in the 2030 Agenda to assist developing countries in attaining long-term debt sustainability through coordinated policies aimed at fostering debt financing, debt relief and debt restructuring, as appropriate, and to address the external debt of highly indebted poor countries to reduce debt distress,

Recognizing the commitments made in the Addis Ababa Action Agenda, and noting that, despite international debt relief efforts, many countries remain vulnerable to debt crisis and some are in the midst of a crisis, including a number of least developed countries, small island developing States and some developed countries,

Mindful of the role, mandate and activities of other United Nations agencies, funds and programmes in dealing with the issues of foreign debt and international financial obligations,

Acknowledging that there is greater acceptance that the increasing debt burden faced by the most indebted developing countries, in particular the least developed countries, is unsustainable and constitutes one of the principal obstacles to achieving progress in people-centred sustainable development and poverty eradication and that, for many developing and some developed countries, excessive debt servicing has severely constrained their capacity to promote social development and provide basic services to create the conditions for the realization of economic, social and cultural rights,

Expressing its concern that, despite repeated rescheduling of debt, developing countries continue to pay out more each year than the actual amount they receive in official development assistance,

Recalling the Basic Principles on Sovereign Debt Restructuring Processes,[1] which emphasize that sovereign debt restructuring workouts should be completed in a timely and efficient manner and lead to a stable debt situation in the debtor State, minimizing economic and social costs, warranting the stability of the international financial system and respecting human rights,

Recognizing the sovereign right of any State to restructure its sovereign debt, which should not be frustrated or impeded by any measure emanating from another State,

Recognizing also that illicit financial flows, including tax evasion by high net-worth individuals, commercial tax evasion through trade misinvoicing and tax avoidance by transnational corporations, contribute to the build-up of unsustainable debt, as Governments lacking domestic revenue may resort to external borrowing,

Affirming that debt burden further complicates the numerous problems facing developing countries, contributes to extreme poverty and is an obstacle to sustainable human development, and is thus a serious impediment to the realization of all human rights,

1. *Recalls* that every State has the primary responsibility to promote the economic, social and cultural development of its people and, to that end, has the right and

[1] See General Assembly resolution 69/319.

responsibility to choose its means and goals of development and should not be subject to external specific prescriptions for economic policy;

2. *Recognizes* that structural adjustment reform programmes and policy conditionalities limit public expenditure, impose fixed expenditure ceilings and give inadequate attention to the provision of social services, and that only a few countries manage to achieve sustainable higher growth under these programmes;

3. *Also recognizes* that debt relief can play a key role in liberating resources that should be directed towards activities consistent with attaining sustainable growth and development, including poverty reduction and the achievement of development goals, including those set out in the 2030 Agenda for Sustainable Development, and therefore that debt relief measures, where appropriate, should be pursued vigorously and expeditiously, ensuring that they do not replace alternative sources of financing and that they are accompanied by an increase in official development assistance;

4. *Urges* the international community, including the United Nations system, the Bretton Woods institutions and the private sector, to take appropriate measures and actions for the implementation of the pledges, commitments, agreements and decisions of major United Nations conferences and summits, including the Millennium Summit, the World Conference on Human Rights, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the World Conference on Sustainable Development and the International Conference on Financing for Development, in particular those relating to the question of the external debt problem of developing countries, in particular of heavily indebted poor countries, least developed countries and countries with economies in transition;

5. *Reiterates* its request to the United Nations High Commissioner for Human Rights to pay more attention to the problem of the debt burden of developing countries, in particular of least developed countries, and especially the social impact of the measures arising from foreign debt;

6. *Also reiterates* that the activities of vulture funds highlight some of the problems in the global financial system and are indicative of the unjust nature of the current system, which directly affects the enjoyment of human rights in debtor States, and calls upon States to consider implementing legal frameworks to curtail predatory vulture fund activities within their jurisdictions;

7. *Takes note with appreciation* of the progress report of the Advisory Committee on the activities of vulture funds and their impact on human rights,[2] and requests the Committee to present a final report thereon to the Human Rights Council at its thirty-ninth session for its consideration;

8. *Welcomes* the work and contributions of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, and takes note with appreciation of his latest report submitted to the Human Rights Council;[3]

9. *Decides* to extend the mandate of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, for a period of three years, and requests the Independent Expert to pay particular attention to:

[2] A/HRC/33/54.

[3] A/HRC/34/57 and Add.1.

(*a*) The effects of foreign debt and the policies adopted to address them on the full enjoyment of all human rights, in particular economic, social and cultural rights;

(*b*) The impact of foreign debt and other related international financial obligations on the capacity of States to design and implement their policies and programmes, including national budgets that respond to vital requirements for the promotion of the realization of social rights;

(*c*) Measures taken by Governments, the private sector and international financial institutions to alleviate such effects in developing countries, especially the poorest and heavily indebted countries;

(*d*) New developments in and actions and initiatives being taken by international financial institutions, other United Nations bodies and intergovernmental and non-governmental organizations with respect to economic reform policies and human rights;

(*e*) The effects of public debt, economic reform and financial consolidation policies on the realization of the Sustainable Development Goals;

(*f*) The impact of illicit financial flows on the enjoyment of human rights;

(*g*) The process entrusted with the follow-up to the International Conference on Financing for Development, with a view to bringing to its attention the issue of the effects of structural adjustment and foreign debt on the enjoyment of human rights, particularly economic, social and cultural rights;

(*h*) Enhancement of consultations with all relevant stakeholders in the fulfilment of the mandate;

10. *Calls upon* all Governments to cooperate with and assist the Independent Expert in the discharge of his or her mandate, to provide him or her with all the necessary information requested by him or her, and to give serious consideration to responding favourably to his or her requests to visit their countries in order to enable him or her to fulfil his or her duties effectively;

11. *Urges* international organizations, international financial institutions, non-governmental organizations and the private sector to cooperate fully with the Independent Expert in the discharge of his or her mandate;

12. *Requests* the Independent Expert to participate in relevant international dialogues and policy forums relating to the implementation of the 2030 Agenda for Sustainable Development, and to undertake thematic research and to provide advice to States, international financial institutions, the private sector and civil society on the effective implementation of the 2030 Agenda in the field of international lending, financial policy and human rights, paying particular attention to Sustainable Development Goals 10 and 17;

13. *Also requests* the Independent Expert to develop guiding principles for human rights impact assessments for economic reform policies, in consultation with States, international financial institutions and other relevant stakeholders, and to organize expert consultations for the development of the guiding principles and a mapping of existing impact assessment tools;

14. *Invites* the Independent Expert to submit his findings and the guiding principles to the Human Rights Council in the context of his annual report;

15. *Requests* the High Commissioner to provide all the human and financial resources necessary for the effective fulfilment of the mandate by the Independent Expert;

16. *Requests* the Independent Expert to report regularly to the Human Rights Council and the General Assembly in accordance with their respective programmes of work;

17. *Decides* to continue its consideration of this matter at its thirty-seventh session under the same agenda item.

56th meeting
23 March 2017

[Adopted by a recorded vote of 31 to 16, with no abstentions. The voting was as follows:

In favour:

Bangladesh, Bolivia (Plurinational State of), Botswana, Burundi, China, Congo, Côte d'Ivoire, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Ghana, India, Indonesia, Iraq, Kenya, Kyrgyzstan, Mongolia, Nigeria, Panama, Paraguay, Philippines, Qatar, Rwanda, Saudi Arabia, South Africa, Togo, Tunisia, United Arab Emirates, Venezuela (Bolivarian Republic of)

Against:

Albania, Belgium, Brazil, Croatia, Georgia, Germany, Hungary, Japan, Latvia, Netherlands, Portugal, Republic of Korea, Slovenia, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America]

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Resolution adopted by the Human Rights Council on 23 March 2017

34/4. Question of the realization in all countries of economic, social and cultural rights

The Human Rights Council,

Guided by the principles of economic, social and cultural rights enshrined in international human rights instruments, including the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights,

Recalling that the Vienna Declaration and Programme of Action, the 2005 World Summit Outcome and General Assembly resolution 60/251 of 15 March 2006, in which the Assembly established the Human Rights Council, all affirm that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing and must be treated in a fair and equal manner, on the same footing and with the same emphasis, and recalling also that the promotion and protection of one category of rights should never exempt States from the promotion and protection of the other rights,

Recalling also the United Nations Millennium Declaration, in which the heads of State and Government affirmed their commitment to spare no effort to promote democracy and strengthen the rule of law, as well as peace, development and respect for all internationally recognized human rights and fundamental freedoms, including the right to development, and believing that broad and sustained efforts are needed to build a community of shared future for all human beings,

Reaffirming General Assembly resolution 70/1 of 25 September 2015, entitled "Transforming our world: the 2030 Agenda for Sustainable Development", in which the Assembly adopted a comprehensive, far-reaching and people-centred set of universal and transformative sustainable development Goals and targets, the commitment to working tirelessly for the full implementation of the Agenda by 2030, its recognition that eradicating poverty in all its forms and dimensions, including extreme poverty, is the greatest global challenge and an indispensable requirement for sustainable development, its commitment to achieving sustainable development in its three dimensions – economic, social and environmental – in a balanced and integrated manner, building upon the achievements of the Millennium Development Goals and seeking to address their unfinished business, and aiming to contribute to the full implementation of the Agenda by 2030,

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Reaffirming also the New York Declaration for Refugees and Migrants adopted by the General Assembly on 19 September 2016, in which States reaffirmed the human rights of all refugees and migrants, regardless of status, and pledged to fully protect such rights,

Recalling its resolutions on the question of the realization in all countries of economic, social and cultural rights, and the resolutions adopted by the Commission on Human Rights on the same topic,

Reaffirming the obligations and commitments to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of available resources, with a view to achieving progressively the full realization of economic, social and cultural rights by all appropriate means, including particularly the adoption of legislative measures,

Underlining the human rights principles of, inter alia, non-discrimination, human dignity, equity, equality, universality, participation and accountability, as affirmed in international human rights law and in the Vienna Declaration and Programme of Action,

Emphasizing that the rights enunciated in the International Covenant on Economic, Social and Cultural Rights are to be realized in a non-discriminatory manner,

Recalling the commitment included in the International Covenant on Economic, Social and Cultural Rights to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the Covenant, and welcoming the inclusion of both gender equality and the empowerment of all women and girls as a stand-alone goal, and its integration into all goals and targets of the 2030 Agenda for Sustainable Development and throughout the implementation process,

Recognizing that human rights and social protection floors complement each other, and that social protection floors, when used as a baseline, have the potential to facilitate the enjoyment of economic, social and cultural rights and to reduce poverty and inequality,

1. *Calls upon* all States to give full effect to economic, social and cultural rights by, inter alia, taking all appropriate measures to implement the Human Rights Council resolutions on the question of the realization in all countries of economic, social and cultural rights, the most recent of which is resolution 31/5 of 23 March 2016;

2. *Calls upon* all States that have not yet signed and ratified the International Covenant on Economic, Social and Cultural Rights to consider doing so as a matter of priority, and States parties to consider reviewing their reservations thereto;

3. *Welcomes* the most recent ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and encourages all States that have not yet signed and ratified the Optional Protocol to consider doing so, and also to consider making declarations under articles 10 and 11 thereof;

4. *Takes note with appreciation* of the report of the Secretary-General on the question of the realization in all countries of economic, social and cultural rights, with a special focus on the realization of economic, social and cultural rights in the implementation of the 2030 Agenda for Sustainable Development, submitted pursuant to Human Rights Council resolution 31/5,[1] and of the conclusions contained therein;

5. *Emphasizes* that the 2030 Agenda marks a paradigm shift towards a more balanced and integrated plan of action for achieving sustainable development that reflects the indivisibility and interdependence of all human rights;

[1] A/HRC/34/25.

6. *Recognizes* that the 17 Sustainable Development Goals and the 169 targets of the 2030 Agenda cover a wide range of issues relating to economic, social and cultural rights, in particular availability, accessibility, affordability and quality of services, and many dimensions of civil and political rights, as well as issues that are related to domestic resource mobilization, international cooperation and the right to development, and that the implementation of the 2030 Agenda must be consistent with a State's obligations under international human rights law;

7. *Also recognizes* that the commitments made by States in the 2030 Agenda to leave no one behind, and to reach the furthest behind first, founded on the dignity of the human person, and reflecting the principles of equality and non-discrimination, require the collection of quality, accessible, timely and reliable disaggregated data to help in the measurement of progress across all Goals and targets, and the intensification of efforts to strengthen statistical capacities in developing countries, particularly African countries, least developed countries, landlocked developing countries, small island developing States and middle-income countries;

8. *Notes with appreciation* the contributions of international human rights mechanisms, including the Human Rights Council and its subsidiary bodies, international human rights treaty bodies, the special procedures and the universal periodic review in promoting the implementation of the 2030 Agenda in accordance with States' human rights obligations, encourages States to give due consideration to information, observations and recommendations from human rights mechanisms when implementing and monitoring progress of the 2030 Agenda, and to promote the cooperation of all stakeholders towards the full integration of human rights into the said processes;

9. *Urges* States to consider adopting or further developing procedures for information-gathering and measurement, which may, if analysed in the light of international human rights law principles and standards, serve as national indicators for State decision-making processes, and are transparent and participatory, and allow for accountability;

10. *Underlines* the importance of an effective remedy for violations of economic, social and cultural rights, and in this regard notes with appreciation the measures taken to facilitate access to complaints procedures and the domestic adjudication of cases, as appropriate, for victims of alleged human rights violations;

11. *Welcomes* the steps taken at the national level to implement economic, social and cultural rights, including the enactment of appropriate legislation and adjudication by national courts, and in this regard underlines the need to consider justiciability when determining the best way to give domestic legal effect to the rights in the Covenant;

12. *Recognizes* that the 17 Sustainable Development Goals and 169 targets seek to, inter alia, realize the human rights of all and to achieve gender equality and the empowerment of all women and girls, and that they are integrated and indivisible and balance the three dimensions of sustainable development, namely the economic, social and environmental, and calls upon States to implement the 2030 Agenda consistent with the principles of equality and non-discrimination, and in this regard encourages States to consider appropriate measures to promote de facto equality;

13. *Acknowledges* that social protection floors may facilitate the enjoyment of human rights, including the rights to social security, the highest attainable standard of physical and mental health, an adequate standard of living, including adequate food, clothing and housing, education and safe drinking water and sanitation, in accordance with the human rights obligations of States, and in this regard underlines the importance of compliance with the principles of non-discrimination, transparency, participation and accountability;

14. *Notes with appreciation* the work carried out by the Committee on Economic, Social and Cultural Rights to assist States parties in fulfilling their obligations, including through the submission of general comments, the consideration of periodic reports and, for States parties to the Optional Protocol to the Covenant, the examination of individual communications;

15. *Also notes with appreciation* the work of other relevant treaty bodies and special procedures in the promotion and protection of economic, social and cultural rights within their respective mandates;

16. *Encourages* enhanced cooperation and, as appropriate, increased coordination between the Committee on Economic, Social and Cultural Rights and United Nations bodies, specialized agencies and programmes, mechanisms of the Human Rights Council and other human rights treaty bodies whose activities have a bearing on economic, social and cultural rights, in a manner that respects their distinctive mandates and promotes their policies, programmes and projects;

17. *Recognizes and encourages* the important contributions of regional organizations, national human rights institutions and civil society, including non-governmental organizations, academic and research institutions, business enterprises and trade unions, to the question of the realization and enjoyment of economic, social and cultural rights, including training and information activities;

18. *Welcomes* the activities carried out by the Office of the United Nations High Commissioner for Human Rights on the promotion of economic, social and cultural rights, mainly through technical cooperation, the work of its field offices, its relevant reports to United Nations bodies, the development of in-house expertise, including on human rights indicators, and its publications, studies, training and information activities on related issues, including through new information technology;

19. *Requests* the Secretary-General to continue to prepare and submit to the Human Rights Council an annual report on the question of the realization in all countries of economic, social and cultural rights under agenda item 3, with a special focus on the role of economic, social and cultural rights in the transformation towards sustainable and resilient societies;

20. *Decides* to remain seized of this issue and to consider taking further action in order to implement the present resolution.

56th meeting
23 March 2017

[Adopted without a vote.]

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34/5. Mandate of the Special Rapporteur on the situation of human rights defenders

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant instruments,

Recalling General Assembly resolution 53/144 of 9 December 1998, by which the Assembly adopted by consensus the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms annexed to that resolution, and reiterating the importance of the Declaration and its promotion and implementation,

Recalling also the continued validity and application of all the provisions of the above-mentioned Declaration,

Recalling further all previous resolutions on this subject, including Human Rights Council resolutions 16/5 of 24 March 2011, 25/18 of 28 March 2014 and 31/32 of 24 March 2016, and General Assembly resolutions 68/181 of 18 December 2013 and 70/161 of 17 December 2015,

Recalling Human Rights Council resolutions 5/1, on institution-building of the Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, of 18 June 2007, and stressing that the mandate holder shall discharge his or her duties in accordance with those resolutions and the annexes thereto,

Emphasizing the important role that individuals and civil society institutions, including non-governmental organizations, groups and national human rights institutions, play at the local, national, regional and international levels in the promotion and protection of all human rights and fundamental freedoms for all,

Reiterating the grave concerns expressed by the General Assembly and the Human Rights Council with regard to the serious risks faced by human rights defenders due to threats, attacks, reprisals and acts of intimidation against them,

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Reaffirming that States are under the obligation to protect all human rights and fundamental freedoms of all persons,

Stressing that respect and support for the activities of all human rights defenders, including women human rights defenders, are essential to the overall enjoyment of human rights,

Mindful that domestic law and administrative provisions and their application should facilitate the work of human rights defenders, including by avoiding any criminalization, stigmatization, impediments, obstructions or restrictions thereof contrary to international human rights law,

Underscoring that the legal framework within which human rights defenders work peacefully to promote and protect human rights and fundamental freedoms is that of national legislation consistent with the Charter and international human rights law,

Gravely concerned that, in some instances, national security and counter-terrorism legislation and other measures, such as laws regulating civil society organizations, have been misused to target human rights defenders or have hindered their work and endangered their safety in a manner contrary to international law,

Recognizing the urgent need to address, and to take concrete steps to prevent and stop, the use of legislation to hinder or limit unduly the ability of human rights defenders to exercise their work, including by reviewing and, where necessary, amending relevant legislation and its implementation in order to ensure compliance with international human rights law,

1. *Welcomes* the work and takes note with appreciation of the report of the Special Rapporteur on the situation of human rights defenders,[1] and strongly urges all States to take concrete steps to create, in law and in practice, a safe and enabling environment in which human rights defenders can operate free from hindrance and insecurity;

2. *Decides* to extend the mandate of the Special Rapporteur on the situation of human rights defenders for a period of three years in the same terms as provided for by the Human Rights Council in its resolution 16/5;

3. *Urges* all States to cooperate with and assist the Special Rapporteur in the performance of his or her tasks, to provide all information and to respond to the communications transmitted to them by the Special Rapporteur without undue delay;

4. *Calls upon* States to give serious consideration to responding favourably to the requests of the Special Rapporteur to visit their countries, and urges them to enter into a constructive dialogue with the Special Rapporteur with respect to the follow-up to and implementation of his or her recommendations so as to enable him or her to fulfil the mandate even more effectively;

5. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Special Rapporteur with all the assistance necessary for the effective fulfilment of his or her mandate;

6. *Encourages* all concerned United Nations agencies and organizations, within their mandates, to provide all possible assistance and support to the Special Rapporteur for the effective fulfilment of his or her mandate, including in the context of country visits and

[1] A/HRC/34/52.

through suggestions on ways and means of ensuring the protection of human rights defenders;

7. *Decides* to continue consideration of this issue in accordance with its annual programme of work.

56th meeting
23 March 2017

[Adopted without a vote.]

United Nations A/HRC/RES/34/6

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Human Rights Council
Thirty-fourth session
27 February–24 March 2017
Agenda item 3

Resolution adopted by the Human Rights Council on 23 March 2017

34/6. Mandate of the Special Rapporteur on minority issues

The Human Rights Council,

Recalling the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by consensus by the General Assembly by its resolution 47/135 of 18 December 1992,

Recalling also all previous resolutions adopted by the General Assembly, the Commission on Human Rights and the Human Rights Council on the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Recalling further its resolutions 5/1, on institution-building of the Human Rights Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, of 18 June 2007, and stressing that all mandate holders shall discharge their duties in accordance with those resolutions and the annexes thereto,

1. *Decides* to extend the mandate of the Special Rapporteur on minority issues for a period of three years under the same terms as provided for by the Human Rights Council in its resolution 25/5;

2. *Calls upon* all States to cooperate with and assist the Special Rapporteur in the performance of the tasks and duties mandated to him or her, to provide him or her with all the necessary information requested and to seriously consider responding promptly and favourably to the request of the Special Rapporteur to visit their countries in order to enable him or her to fulfil his or her duties effectively;

3. *Encourages* specialized agencies, regional organizations, national human rights institutions and non-governmental organizations to develop and maintain regular dialogue and cooperation with the mandate holder, and to continue to contribute to the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities;

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4. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide all the human, technical and financial assistance necessary for the effective fulfilment of the mandate of the Special Rapporteur;

5. *Decides* to continue its consideration of this issue in accordance with its annual programme of work.

56th meeting
23 March 2017

[Adopted without a vote.]

United Nations A/HRC/RES/34/7

General Assembly

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Resolution adopted by the Human Rights Council on 23 March 2017

34/7. The right to privacy in the digital age

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the human rights and fundamental freedoms enshrined in the Universal Declaration of Human Rights and relevant international human rights treaties, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities,

Recalling the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms,

Reaffirming the Vienna Declaration and Programme of Action,

Recalling General Assembly resolutions 68/167 of 18 December 2013, 69/166 of 18 December 2014 and 71/199 of 19 December 2016 on the right to privacy in the digital age, and 45/95 of 14 December 1990 on guidelines for the regulation of computerized personal data files, Human Rights Council decision 25/117 of 27 March 2014 and Council resolution 28/16 of 26 March 2015 on the right to privacy in the digital age, and all other relevant resolutions of the Council, in particular resolutions 33/2 of 29 September 2016 on the safety of journalists, resolution 12/16 of 2 October 2009 and all other resolutions on the right to freedom of opinion and expression, and resolutions 20/8 of 5 July 2012, 26/13 of 26 June 2014 and 32/13 of 1 July 2016 on the promotion, protection and enjoyment of human rights on the Internet,

Welcoming the work of the Office of the United Nations High Commissioner for Human Rights on the right to privacy in the digital age, noting with interest its report thereon, and recalling the panel discussion on the right to privacy in the digital age held during the twenty-seventh session of the Human Rights Council,[1]

[1] See A/HRC/28/39.

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Welcoming also the work of the Special Rapporteur on the right to privacy, and taking note of the reports of the Special Rapporteur on the right to privacy,[2] of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism[3] and of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression,[4]

Noting with appreciation general comment No. 16 (1988) of the Human Rights Committee on the right to respect of privacy, family, home and correspondence, and protection of honour and reputation, while also noting the vast technological leaps that have taken place since its adoption and the need to discuss the right to privacy in view of the challenges of the digital age,

Noting that, in its general comment No. 16, the Human Rights Committee recommended that States take effective measures to prevent the unlawful retention, processing and use of personal data stored by public authorities and business enterprises,

Recalling that the General Assembly in its resolution 71/199 encouraged the Human Rights Council to remain actively seized of the debate on the right to privacy in the digital age with the purpose of identifying and clarifying principles, standards and best practices regarding the promotion and protection of the right to privacy, and to consider holding an expert workshop as a contribution for a future report of the United Nations High Commissioner for Human Rights on this matter,

Recognizing the need to further discuss and analyse, on the basis of international human rights law, issues relating to the promotion and protection of the right to privacy in the digital age, procedural safeguards, effective domestic oversight and remedies, the impact of surveillance on the right to privacy and other human rights, as well as the need to examine the principles of non-arbitrariness, lawfulness, legality, necessity and proportionality in relation to surveillance practices,

Recognizing also that the discussion on the right to privacy should be based upon existing international and domestic legal obligations, including international human rights law, and relevant commitments, and should not open the path for undue interference with an individual's human rights,

Reaffirming the human right to privacy, according to which no one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, and the right to the protection of the law against such interference, and recognizing that the exercise of the right to privacy is important for the realization of other human rights, including the right to freedom of expression and to hold opinions without interference, and the right to freedom of peaceful assembly and association, and is one of the foundations of a democratic society,

Recognizing that the right to privacy can enable the enjoyment of other rights and the free development of an individual's personality and identity, and an individual's ability to participate in political, economic, social and cultural life, and noting with concern that violations or abuses of the right to privacy might affect the enjoyment of other human rights, including the right to freedom of expression and to hold opinions without interference, and the right to freedom of peaceful assembly and association,

Noting that the rapid pace of technological development enables individuals all over the world to use information and communications technology and at the same time

[2] A/HRC/31/64, A/HRC/34/60 and A/71/368.
[3] A/HRC/34/61 and A/69/397.
[4] A/HRC/23/40 and Corr.1, A/HRC/29/32, A/HRC/32/38 and A/70/361.

enhances the capacity of Governments, business enterprises and individuals to undertake surveillance, interception and data collection, which may violate or abuse human rights, in particular the right to privacy, as set out in article 12 of the Universal Declaration of Human Rights and article 17 of the International Covenant on Civil and Political Rights, and is therefore an issue of increasing concern,

Noting also that, while metadata may provide benefits, certain types of metadata, when aggregated, can reveal personal information that can be no less sensitive than the actual content of communications and can give an insight into an individual's behaviour, social relationships, private preferences and identity,

Noting with concern that automatic processing of personal data for individual profiling may lead to discrimination or decisions that otherwise have the potential to affect the enjoyment of human rights, including economic, social and cultural rights, and recognizing the need to further discuss and analyse these practices on the basis of international human rights law,

Expressing concern that individuals often do not provide their free, explicit and informed consent to the re-use, sale or multiple re-sales of their personal data, as the collecting, processing and sharing of personal data, including sensitive data, has increased significantly in the digital age,

Emphasizing that unlawful or arbitrary surveillance and/or interception of communications, and the unlawful or arbitrary collection of personal data, as highly intrusive acts, violate the right to privacy, can interfere with other human rights, including the right to freedom of expression and to hold opinions without interference, and the right to freedom of peaceful assembly and association, and may contradict the tenets of a democratic society, including when undertaken extraterritorially or on a mass scale,

Emphasizing also that States must respect international human rights obligations regarding the right to privacy when they intercept digital communications of individuals and/or collect personal data and when they require disclosure of personal data from third parties, including business enterprises,

Recalling that business enterprises have a responsibility to respect human rights as set out in the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, and that the obligation and the primary responsibility to promote and protect human rights and fundamental freedoms lie with the State,

Deeply concerned at the negative impact that surveillance and/or interception of communications, including extraterritorial surveillance and/or interception of communications, and the collection of personal data, in particular when carried out on a mass scale, may have on the exercise and enjoyment of human rights,

Noting that, while concerns about public security may justify the gathering and protection of certain sensitive information, States must ensure full compliance with their obligations under international human rights law,

Emphasizing that, in the digital age, technical solutions to secure and to protect the confidentiality of digital communications, including measures for encryption and anonymity, can be important to ensure the enjoyment of human rights, in particular the rights to privacy, to freedom of expression and to freedom of peaceful assembly and association,

Emphasizing also that an open, secure, stable, accessible and peaceful information and communications technology environment is important to the enjoyment of human rights, including the right to privacy,

Noting that violations and abuses of the right to privacy in the digital age may affect all individuals, including with particular effects on women, as well as children and persons in vulnerable situations, or marginalized groups,

Noting with deep concern that, in many countries, persons and organizations engaged in promoting and defending human rights and fundamental freedoms frequently face threats and harassment and suffer insecurity as well as unlawful or arbitrary interference with their right to privacy as a result of their activities,

Noting that the prevention and suppression of terrorism is a public interest of great importance, while reaffirming that States must ensure that any measures taken to combat terrorism are in compliance with their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law,

1. *Reaffirms* the right to privacy, according to which no one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, and the right to the protection of the law against such interference, as set out in article 12 of the Universal Declaration of Human Rights and article 17 of the International Covenant on Civil and Political Rights;

2. *Recalls* that States should ensure that any interference with the right to privacy is consistent with the principles of legality, necessity and proportionality;

3. *Recognizes* the global and open nature of the Internet and the rapid advancement in information and communications technology as a driving force in accelerating progress towards development in its various forms, including in achieving the Sustainable Development Goals;

4. *Affirms* that the same rights that people have offline must also be protected online, including the right to privacy;

5. *Calls upon* all States:

(*a*) To respect and protect the right to privacy, including in the context of digital communications;

(*b*) To take measures to put an end to violations of the right to privacy and to create the conditions to prevent such violations, including by ensuring that relevant national legislation complies with their obligations under international human rights law;

(*c*) To review their procedures, practices and legislation regarding the surveillance of communications, their interception and the collection of personal data, including mass surveillance, interception and collection, with a view to upholding the right to privacy by ensuring the full and effective implementation of all their obligations under international human rights law;

(*d*) To establish or maintain existing independent, effective, adequately resourced and impartial judicial, administrative and/or parliamentary domestic oversight mechanisms capable of ensuring transparency, as appropriate, and accountability for State surveillance of communications, their interception and the collection of personal data;

(*e*) To provide individuals whose right to privacy has been violated by unlawful or arbitrary surveillance with access to an effective remedy, consistent with international human rights obligations;

(*f*) To develop or maintain and implement adequate legislation, with effective sanctions and remedies, that protects individuals against violations and abuses of the right to privacy, namely through the unlawful or arbitrary collection, processing, retention or use

of personal data by individuals, Governments, business enterprises and private organizations;

(*g*) To further develop or maintain, in this regard, preventive measures and remedies for violations and abuses regarding the right to privacy in the digital age that may affect all individuals, including where there are particular effects for women, as well as children and persons in vulnerable situations or marginalized groups;

(*h*) To promote quality education and lifelong education opportunities for all to foster, inter alia, digital literacy and the technical skills required to protect effectively their privacy;

(*i*) To refrain from requiring business enterprises to take steps that interfere with the right to privacy in an arbitrary or unlawful way;

(*j*) To consider appropriate measures that would enable business enterprises to adopt adequate voluntary transparency measures with regard to requests by State authorities for access to private user data and information;

(*k*) To develop or maintain legislation, preventive measures and remedies addressing harm from the sale or multiple resale or other corporate sharing of personal data without the individual's free, explicit and informed consent;

6. *Encourages* all States to promote an open, secure, stable, accessible and peaceful information and communications technology environment based on respect for international law, including the obligations enshrined in the Charter of the United Nations and human rights instruments;

7. *Encourages* all relevant stakeholders to participate in informal dialogues about the right to privacy, and welcomes the contribution of the Special Rapporteur on the right to privacy to this process;

8. *Calls upon* all business enterprises to meet their responsibility to respect human rights in accordance with the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, including the right to privacy in the digital age, and to inform users about the collection, use, sharing and retention of their data that may affect their right to privacy and to establish transparency and policies that allow for the informed consent of users, as appropriate;

9. *Encourages* business enterprises to work towards enabling technical solutions to secure and protect the confidentiality of digital communications, which may include measures for encryption and anonymity, and calls upon States not to interfere with the use of such technical solutions, with any restrictions thereon complying with States' obligations under international human rights law;

10. *Requests* the United Nations High Commissioner for Human Rights to organize, before the thirty-seventh session of the Human Rights Council, an expert workshop with the purpose of identifying and clarifying principles, standards and best practices regarding the promotion and protection of the right to privacy in the digital age, including the responsibility of business enterprises in this regard, to prepare a report thereon and to submit it to the Council at its thirty-ninth session;

11. *Encourages* States, relevant United Nations agencies, funds and programmes, intergovernmental organizations, treaty bodies, the special procedures, regional human rights mechanisms, civil society organizations, academia, national human rights institutions, business enterprises, the technical community and other relevant stakeholders to participate actively in the expert workshop;

12. *Decides* to continue its consideration of the matter under the same agenda item.

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34/8. Effects of terrorism on the enjoyment of all human rights

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and other relevant international human rights instruments,

Recalling all relevant resolutions of the General Assembly, the Security Council, the Commission on Human Rights and the Human Rights Council concerning terrorism, including Assembly resolutions 46/51 of 9 December 1991, 60/158 of 16 December 2005, 60/288 of 8 September 2006, 64/297 of 8 September 2010, 66/10 of 18 November 2011 on the United Nations Counter-Terrorism Centre established on the initiative of the United Nations and Saudi Arabia, 68/178 of 18 December 2013, 68/276 of 13 June 2014, 69/127 of 10 December 2014 and 70/148 of 17 December 2015, Commission resolution 2004/44 of 19 April 2004 and Human Rights Council resolutions on terrorism and human rights, including 28/17 of 26 March 2015 and 31/30 of 24 March 2016,

Reaffirming its commitment to the United Nations Global Counter-Terrorism Strategy and its four pillars, adopted by the General Assembly in its resolution 60/288, and its fifth review,[1]

Reaffirming also the right of the people to live in peace, freedom and security and to be protected at all times from the threat of terrorism,

Reaffirming further that everyone has the right to life, liberty and security of person, as enshrined under article 3 of the Universal Declaration of Human Rights,

Reaffirming that civil, political, economic, social and cultural rights are universal, indivisible, interdependent and interrelated, as enshrined in the Universal Declaration of

[1] See General Assembly resolution 70/291.

Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,

Mindful that terrorism may destabilize Governments, undermine societies, jeopardize peace and security and threaten economic and social development, all of which have serious implications for the enjoyment of human rights by all,

Reaffirming that States, under international human rights law, have a due diligence obligation to protect individuals under their jurisdiction from acts of terrorism, to take effective counter-terrorism measures and to investigate and prosecute those responsible for carrying out such acts, and emphasizing the importance of ensuring that counter-terrorism laws and practices are human rights-compliant,

Recognizing that counter-terrorism measures and the protection of human rights are complementary and mutually reinforcing, and must be pursued together as part of the duty of States to protect individuals within their jurisdiction,

Reaffirming the fundamental importance of respecting all human rights and fundamental freedoms and the rule of law,

Reiterating that all States have an obligation to promote and protect all human rights and fundamental freedoms and to ensure effective implementation of their obligations under international human rights law and international humanitarian law, as applicable,

Recognizing that countering terrorism requires a comprehensive approach and a multidimensional strategy to tackle the underlying factors that give rise to terrorism,

Renewing its unwavering commitment to strengthening international cooperation to prevent and combat terrorism in all its forms and manifestations,

Taking note with appreciation of the report of the United Nations High Commissioner for Human Rights on the negative effects of terrorism on the enjoyment of all human rights and fundamental freedoms submitted to the Human Rights Council at its thirty-fourth session,[2]

Recognizing that international cooperation and any measures taken by Member States to prevent and combat terrorism must comply fully with their obligations under international law, including the Charter, in particular the purposes and principles thereof, and other relevant international conventions and protocols, international human rights law and international humanitarian law, as applicable,

Emphasizing that mutual respect, tolerance and dialogue among civilizations and the enhancement of interfaith and intercultural understanding are among the most important elements in promoting cooperation and success in preventing and combating terrorism, and welcoming the various initiatives to this end,

Reaffirming its strongest condemnation of terrorism in all its forms and manifestations, committed by whomever, wherever and for whatever purposes, and emphasizing that terrorism cannot and should not be associated with any religion, nationality or civilization,

Acknowledging the important contribution of measures taken at all levels against terrorism, consistent with international law, to the functioning of democratic institutions and the maintenance of peace and security and thereby to the full enjoyment of human rights, and the need to continue the fight against terrorism, while promoting and respecting

[2] A/HRC/34/40.

human rights and fundamental freedoms, including through international cooperation and by strengthening, as appropriate, the role of the United Nations in this respect,

Recognizing that terrorism has a detrimental effect on the enjoyment of human rights and fundamental freedoms, such as the right to life, liberty and security of person, and impedes the full realization of economic, social and cultural rights, such as the rights to work, education, health and development, threatening the territorial integrity and security of States, rule of law and democracy and ultimately representing a grave threat to the functioning of societies and to international peace and security,

Expressing its continuing concern at the increasing flow of foreign terrorist fighters and at the threat it poses to all States, including countries of origin, transit and destination, and encouraging all States to address this threat by enhancing their cooperation and developing relevant measures to prevent this phenomenon,

Reiterating that all States should fulfil their responsibilities to deny all forms of support for terrorists and terrorist groups, particularly political, military, logistical and financial support, including through the collection of funds by their nationals or persons in their territories, or availing financial assets, for the benefit of terrorist groups or individual terrorists for any purpose, to deny the provision of safe haven to terrorists, to prevent terrorists from benefiting directly or indirectly from ransom payments to terrorist groups, and to bring to justice or, where appropriate, extradite, on the basis of the principle of extradite or prosecute, the perpetrators of terrorist acts or any person who supports, facilitates or participates, or attempts to participate, in the financing, planning, preparation or perpetration of terrorist acts or in providing safe havens,

Welcoming political commitments, actions and initiatives taken and adopted against kidnapping for ransom in different forums, such as the Algiers Memorandum on Good Practices on Preventing and Denying the Benefits of Kidnapping for Ransom by Terrorists,

Deeply concerned at the serious crimes committed by terrorist groups and individuals, including foreign terrorist fighters, that have targeted persons and groups on the basis of their ethnic and religious background and involved gross human rights abuses,

Deploring attacks on religious places and shrines and cultural sites in violation of international law, in particular international human rights law and international humanitarian law, as applicable, including any deliberate destruction of relics, monuments or religious sites,

Recalling its resolution 16/18 of 24 March 2011 and its follow-up resolutions, the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence and the Istanbul Process for Combating Intolerance, Discrimination and Incitement to Hatred and/or Violence on the Basis of Religion or Belief, and calling for their effective implementation by the international community in order to contribute to a more conducive environment to countering hate speech and violence, including ethnic or religious stigmatization and discrimination,

Affirming the determination of States to work towards conflict resolution, to confront oppression, to eradicate poverty, to promote sustained economic growth, sustainable development, global prosperity, good governance, human rights and fundamental freedoms for all and the rule of law, to improve intercultural understanding and to promote respect for all,

1. *Strongly condemns* all terrorist acts as criminal and unjustifiable, and expresses grave concern at their detrimental effects on the enjoyment of human rights, including the right to life, liberty and security of person, as stipulated in article 3 of the Universal Declaration of Human Rights;

2. *Expresses its concern* that terrorists and terrorist groups have targeted Governments, communities and individuals, including on the basis of religion and/or ethnicity;

3. *Expresses concern* at the alarming number of victims caused by the escalating level of terrorist attacks throughout the globe, resulting in numerous casualties and destruction;

4. *Acknowledges* that terrorist attacks have a grave impact on the economy and can harm several economic sectors, including the financial sector and tourism industry, thus hampering the full realization of human rights, fundamental freedoms and development;

5. *Recognizes* that terrorism affects the enjoyment of economic, social and cultural rights, especially by diverting foreign direct investment, reducing capital inflows, destroying infrastructure, hindering public investment, limiting trade, impeding economic growth and increasing security costs;

6. *Reaffirms* the primary responsibility of States to protect persons in their territory by preventing and countering terrorism in all its forms and manifestations, in full compliance with their international law obligations, and urges States, while countering terrorism, to respect and protect all human rights;

7. *Strongly condemns* terrorist acts and violence committed against civilians by terrorist groups and the continued systematic and widespread abuses of human rights perpetrated by such groups, reaffirms that terrorism cannot and should not be associated with any religion, nationality or civilization, and urges the international community to do all it can to prevent any political, logistic or financial support from reaching terrorist groups;

8. *Expresses concern* at the increase in kidnapping and hostage-taking with demands for ransom and/or political concessions being made by terrorist groups, and expresses the need to address this issue;

9. *Reiterates* the obligation of States to prevent and suppress the financing of terrorist acts, including ransom payment, and to criminalize the wilful provision or collection by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds be used, or with the knowledge that they are to be used, to carry out terrorist acts;

10. *Reaffirms* the obligation of States to refrain from supporting terrorist groups in establishing propaganda platforms inciting to hatred and violence through electronic or satellite means or any other media on their territory;

11. *Urges* States to take appropriate measures to duly investigate the incitement, preparation or perpetration of acts of terrorism, and to bring to justice those engaged in such acts in accordance with national criminal laws and procedures and international human rights law, as applicable;

12. *Also urges* States to adopt rehabilitation and reintegration strategies for returning foreign terrorist fighters, in line with the good practices set out in the Hague-Marrakech Memorandum on Good Practices for a More Effective Response to the Foreign Terrorist Fighter Phenomenon of the Global Counterterrorism Forum, and to adopt a comprehensive approach that includes the development of national centres for counsel and de-radicalization that can play an important role along with criminal justice responses, and in this regard welcomes the role of the Mohamed bin Naif Counselling and Care Centre in countering terrorist ideologies and activities;

13. *Expresses its concern* at the increasing use, in a globalized society, by terrorists and their supporters of information and communications technology, in particular

the Internet and other media, to advocate, commit, incite, recruit for, fund or plan terrorist acts, urges States to take appropriate preventive measures in this regard while acting in full compliance with their international law obligations, and emphasizes the importance of cooperation among stakeholders in the implementation of the United Nations Global Counter-Terrorism Strategy, including among States, international, regional and subregional organizations, the private sector and civil society, to address this issue, while respecting human rights and fundamental freedoms and complying with international law and the purposes and principles of the Charter of the United Nations, and reiterates that such technologies can be powerful tools in countering the spread of terrorism, including by promoting tolerance, mutual respect and dialogue and understanding among peoples and peace, and in this regard notes with appreciation the constructive role played by the Cyber Observatory of Takfiri Fatwas in Egypt;

14. *Renews* its commitment to strengthening international cooperation to prevent and counter terrorism in accordance with the principles of international law, including the Charter, international human rights law and international humanitarian law, including through technical cooperation, capacity-building and the exchange of information and intelligence on countering terrorism, and in that regard calls upon States and relevant regional and subregional organizations, as appropriate, to continue to implement the United Nations Global Counter-Terrorism Strategy and its four pillars;

15. *Calls upon* all States to promote a culture of peace, justice and human development, ethnic, national and religious tolerance, and respect for all religions, religious values, beliefs and cultures by establishing and encouraging, as appropriate, education and public awareness programmes involving all sectors of society;

16. *Reaffirms* its profound solidarity with the victims of terrorism and their families, and acknowledges the importance of protecting their rights and of providing them with proper support and assistance, while taking into account, when appropriate, considerations regarding remembrance, dignity, respect, justice and truth in such a way that promotes accountability and ends impunity, in accordance with international law, and encourages the enhancement of international cooperation and the exchange of expertise in that respect, in accordance with international law;

17. *Encourages* States to provide appropriate assistance and rehabilitation for victims of terrorism in accordance with relevant national laws from within available resources;

18. *Urges* States, the international community and civil society to take measures, including through education, awareness-raising, the media and human rights education and training, to effectively address the conditions conducive to the spread of terrorism and that make individuals and groups more vulnerable to the effects of terrorism and to recruitment by terrorists;

19. *Invites* all treaty bodies, special procedure mandate holders, international and regional human rights mechanisms and the United Nations High Commissioner for Human Rights, within their respective mandates, to pay due attention to the negative impact of terrorism on the enjoyment of all human rights and fundamental freedoms;

20. *Requests* the Human Rights Council Advisory Committee to conduct a study and prepare a report on the negative effects of terrorism on the enjoyment of all human rights and fundamental freedoms, with a particular focus on economic, social and cultural rights, including as a result of diverting foreign direct investment, reducing capital inflows, destroying infrastructure, limiting foreign trade, disturbing financial markets, negatively affecting certain economic sectors and impeding economic growth, and to recommend actions to be taken by Governments, United Nations human rights mechanisms, regional and international organizations and civil society organizations in this regard, and to present

the report to the Human Rights Council at its thirty-ninth session, to be discussed during the interactive dialogue.

54th meeting
23 March 2017

[Adopted by a recorded vote of 28 to 15, with 4 abstentions. The voting was as follows:

In favour:

Bangladesh, Bolivia (Plurinational State of), Botswana, Brazil, Burundi, China, Congo, Côte d'Ivoire, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Ghana, India, Indonesia, Iraq, Kenya, Nigeria, Paraguay, Philippines, Qatar, Rwanda, Saudi Arabia, Togo, Tunisia, United Arab Emirates, Venezuela (Bolivarian Republic of)

Against:

Albania, Belgium, Croatia, Germany, Hungary, Japan, Latvia, Netherlands, Portugal, Republic of Korea, Slovenia, South Africa, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America

Abstaining:

Georgia, Kyrgyzstan, Mongolia, Panama]

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34/9. Adequate housing as a component of the right to an adequate standard of living and the right to non-discrimination in this context

The Human Rights Council,

Reaffirming that international human rights law instruments, including the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, entail obligations and commitments of States parties, including all levels of government, in relation to access to adequate housing,

Recalling all previous resolutions of the Human Rights Council, and those adopted by the Commission on Human Rights, on the issue of the right to adequate housing as a component of the right to an adequate standard of living, including Council resolutions 25/17 of 28 March 2014 and 31/9 of 23 March 2016,

Recalling also its resolutions 5/1, on institution-building of the Human Rights Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, of 18 June 2007,

Reaffirming the principles and commitments with regard to adequate housing enshrined in the relevant provisions of declarations and programmes adopted by major United Nations conferences and summits, inter alia, the outcome of the United Nations Conference on Housing and Sustainable Urban Development (Habitat III), held from 17 to 20 October 2016 in Quito,[1] and underlining the importance of the implementation of the 2030 Agenda for Sustainable Development, including target 11.1,

1. *Welcomes* the work of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, including the undertaking of country missions,

[1] See General Assembly resolution 71/235.

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2. *Takes note in particular of* the report by the Special Rapporteur on the "financialization of housing" and its impact on human rights;[1]

3. *Decides* to extend, for a period of three years, the mandate of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, as set out in Human Rights Council resolutions 15/8 of 30 September 2010 and 25/17 of 28 March 2014;

4. *Encourages* the Special Rapporteur, in fulfilling the mandate, to submit proposals that could support States in the implementation of the housing-related Sustainable Development Goals and targets and the New Urban Agenda;[2]

5. *Notes with appreciation* the cooperation extended to the Special Rapporteur by different actors, and calls upon States:

(*a*) To cooperate fully with the Special Rapporteur in the discharge of his or her mandate and to respond favourably to his or her requests for information and visits;

(*b*) To enter into a constructive dialogue with the Special Rapporteur with respect to the follow-up to and implementation of his or her recommendations;

6. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to continue to provide all the resources necessary for the effective fulfilment of the mandate of the Special Rapporteur;

7. *Requests* the Special Rapporteur to submit an annual report on the implementation of the mandate to the Human Rights Council and the General Assembly in accordance with their annual programme of work;

8. *Decides* to continue its consideration of this matter under the same agenda item.

56th meeting
23 March 2017

[Adopted without a vote.]

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[1] A/HRC/34/51.

[2] General Assembly resolution 71/256, annex.

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Thirty-fourth session
27 February–24 March 2017
Agenda item 3

Resolution adopted by the Human Rights Council on 23 March 2017

34/10. Freedom of religion or belief

The Human Rights Council,

Recalling General Assembly resolution 36/55 of 25 November 1981, in which the Assembly proclaimed the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,

Recalling also article 18 of the International Covenant on Civil and Political Rights, article 18 of the Universal Declaration of Human Rights and other relevant human rights provisions,

Recalling further Human Rights Council resolution 31/16 of 23 March 2016, and other resolutions adopted by the Council, the General Assembly and the Commission on Human Rights on the freedom of religion or belief or the elimination of all forms of intolerance and of discrimination based on religion or belief,

Recalling Human Rights Council resolutions 5/1 and 5/2 of 18 June 2007,

Noting with appreciation the conclusions and recommendations of the expert workshops organized by the Office of the United Nations High Commissioner for Human Rights and contained in the Rabat Plan of Action on the prohibition of advocacy of national, racial and religious hatred that constitutes incitement to discrimination, hostility or violence, adopted in Rabat on 5 October 2012,

Reaffirming that all human rights are universal, indivisible, interdependent and interrelated,

Recalling that States have the primary responsibility to promote and protect human rights, including the human rights of persons belonging to religious minorities, including their right to exercise their religion or belief freely,

Deeply concerned at continuing acts of intolerance and violence based on religion or belief against individuals, including persons belonging to religious communities and religious minorities around the world,

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Underlining the importance of education in the promotion of tolerance, which involves the acceptance by the public of and its respect for diversity, including with regard to religious expression, and underlining also the fact that education, in particular at school, should contribute in a meaningful way to promoting tolerance and the elimination of discrimination based on religion or belief,

1. *Stresses* that everyone has the right to freedom of thought, conscience and religion or belief, which includes the freedom to have or not to have, or to adopt, a religion or belief of one's choice and the freedom, either alone or in community with others and in public or private, and to manifest one's religion or belief in teaching, practice, worship and observance, including the right to change one's religion or belief;

2. *Emphasizes* that freedom of religion or belief and freedom of expression are interdependent, interrelated and mutually reinforcing, and stresses the role that these rights can play in the fight against all forms of intolerance and discrimination based on religion or belief;

3. *Expresses deep concern* at emerging obstacles to the enjoyment of the right to freedom of religion or belief, and at instances of religious intolerance, discrimination and violence, inter alia:

(*a*) The increasing number of acts of violence directed against individuals, including persons belonging to religious minorities in various parts of the world;

(*b*) The rise of religious extremism in various parts of the world that affects the rights of individuals, including persons belonging to religious minorities;

(*c*) Incidents of religious hatred, discrimination, intolerance and violence, which may be manifested by derogatory stereotyping, negative profiling and the stigmatization of individuals on the basis of their religion or belief;

(*d*) Instances that, both in law and in practice, constitute violations of the fundamental right to freedom of religion or belief, including of the individual right to publicly express one's spiritual and religious beliefs, taking into account the relevant articles of the International Covenant on Civil and Political Rights and other international instruments;

(*e*) Constitutional and legislative systems that fail to provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all, without distinction;

(*f*) Attacks on religious places, sites and shrines and vandalism of cemeteries, in violation of international law, in particular international human rights law and international humanitarian law;

4. *Condemns* all forms of violence, intolerance and discrimination based on or in the name of religion or belief, and violations of the freedom of thought, conscience, religion or belief, and any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence, whether it involves the use of print, audiovisual or electronic media or any other means;

5. *Also condemns* violence and acts of terrorism, which are increasing in number and targeting individuals, including persons belonging to religious minorities across the world;

6. *Emphasizes* that no religion should be equated with terrorism, as this may have adverse consequences for the enjoyment of the right to freedom of religion or belief of all members of the religious community concerned;

7. *Also emphasizes* that States should exercise due diligence to prevent, investigate and punish acts of violence against persons belonging to religious minorities, regardless of the perpetrator, and that failure to do so may constitute a human rights violation;

8. *Strongly encourages* government representatives and leaders in all sectors of society and respective communities to speak out against acts of intolerance and violence based on religion or belief;

9. *Urges* States to step up their efforts to promote and protect freedom of thought, conscience and religion or belief, and to this end:

(*a*) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience and religion or belief to all, without distinction, by, inter alia, the provision of access to justice and effective remedies in cases where the right to freedom of thought, conscience and religion or belief, or the right to freely practise one's religion, including the right to change one's religion or belief, is violated;

(*b*) To implement all accepted universal periodic review recommendations relating to the promotion and protection of freedom of religion or belief;

(*c*) To ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief, and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention, on that account, and to bring to justice all perpetrators of violations of these rights;

(*d*) To end violations of the human rights of women, and to devote particular attention to abolishing practices and legislation that discriminate against women, including in the exercise of their right to freedom of thought, conscience and religion or belief;

(*e*) To ensure that no one is discriminated against on the basis of his or her religion or belief in their access to, inter alia, education, medical care, employment, humanitarian assistance or social benefits, and to ensure that everyone has the right and the opportunity to have access, on general terms of equality, to public services in their country, without any discrimination on the basis of religion or belief;

(*f*) To review, whenever relevant, existing registration practices in order to ensure that such practices do not limit the right of all individuals to manifest their religion or belief, either alone or in community with others and in public or private;

(*g*) To ensure that no official documents are withheld from the individual on the grounds of religion or belief, and that everyone has the right to refrain from disclosing information concerning their religious affiliation in such documents against their will;

(*h*) To ensure in particular the right of all individuals to worship, assemble or teach in connection with a religion or belief and their right to establish and maintain places for these purposes, and the right of all individuals to seek, receive and impart information and ideas in these areas;

(*i*) To ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom of all individuals, including persons belonging to religious minorities, to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected;

(*j*) To ensure that all public officials and civil servants, including members of law enforcement bodies, and personnel of detention facilities, the military and educators, in the course of fulfilling their official duties, respect freedom of religion or belief and do not

discriminate for reasons based on religion or belief, and that all necessary and appropriate awareness-raising, education or training is provided;

(*k*) To take all necessary and appropriate action, in conformity with international human rights obligations, to combat hatred, discrimination, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, and any advocacy of religious hatred that constitutes incitement to discrimination, hostility and violence, with particular regard to persons belonging to religious minorities in all parts of the world;

(*l*) To promote, through the educational system and other means, mutual understanding, tolerance, non-discrimination and respect in all matters relating to freedom of religion or belief by encouraging, in society at large, a wider knowledge of different religions and beliefs and of the history, traditions, languages and cultures of the various religious minorities existing within their jurisdiction;

(*m*) To prevent any distinction, exclusion, restriction or preference based on religion or belief that impairs the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis, and to detect signs of intolerance that may lead to discrimination based on religion or belief;

10. *Stresses* the importance of a continued and strengthened dialogue in all its forms, including among individuals of, and within, different religions and beliefs, and with broader participation, including of women, to promote greater tolerance, respect and mutual understanding, and takes note with appreciation of different initiatives in this regard, including the Alliance of Civilizations and the programmes led by the United Nations Educational, Scientific and Cultural Organization;

11. *Welcomes and encourages* the continuing efforts of all actors in society, including civil society organizations, religious communities, national human rights institutions, the media and other actors to promote the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and also encourages their work in promoting freedom of religion or belief and in highlighting cases of religious intolerance, discrimination and persecution;

12. *Calls upon* States to make use of the potential of education for the eradication of prejudices against and stereotypes of individuals on the basis of their religion or belief;

13. *Takes note* of the thematic report presented by the Special Rapporteur,[1] in which he presents an overview of his perspectives and vision for activities pursuant to the mandate, and the recommendations therein;

14. *Also takes note* of the work of the Special Rapporteur, and concludes that there is a need for the continued contribution of the Special Rapporteur to the promotion, protection and universal implementation of the right to freedom of religion or belief;

15. *Urges* all Governments to cooperate fully with the Special Rapporteur and to respond favourably to his or her requests to visit their countries, and to provide him or her with all the information necessary to enable him or her to fulfil the mandate even more effectively;

16. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Special Rapporteur with all the human, technical and financial assistance necessary for the effective fulfilment of the mandate;

[1] A/HRC/34/50.

17. *Requests* the Special Rapporteur to report annually to the Human Rights Council and to the General Assembly in accordance with their respective programmes of work;

18. *Decides* to remain seized of this question under the same agenda item and to continue its consideration of measures to implement the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

56th meeting
23 March 2017

[Adopted without a vote.]

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Resolution adopted by the Human Rights Council on 23 March 2017

34/11. The negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, and the importance of improving international cooperation

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights, the Declaration on the Right to Development, the Vienna Declaration and Programme of Action and other relevant human rights instruments,

Reiterating the commitment to ensure the effective enjoyment of all civil, political, economic, social and cultural rights for everyone, including the right to development, and the obligation of all States, regardless of their political, economic and cultural systems, to promote, protect and respect all human rights and fundamental freedoms,

Recalling General Assembly resolutions 60/251 of 15 March 2006, 62/219 of 22 December 2007 and 65/281 of 17 June 2011, and Human Rights Council resolutions 5/1 and 5/2 of 18 June 2007, 11/11 of 18 June 2009 and 16/21 of 25 March 2011,

Recalling also General Assembly resolutions 54/205 of 22 December 1999, 55/61 of 4 December 2000, 55/188 of 20 December 2000, 56/186 of 21 December 2001, 57/244 of 20 December 2002, 58/205 of 23 December 2003, 59/242 of 22 December 2003, 60/1 of 16 September 2005, 60/207 of 22 December 2005, 61/209 of 20 December 2006, 62/202 of 19 December 2007, 63/226 of 19 December 2008, 64/237 of 24 December 2009, 65/1 of 22 September 2010, 65/169 of 20 December 2010, 67/192 of 20 December 2012, 68/195 of 18 December 2013, 68/309 of 10 September 2014 and 69/199 of 18 December 2014,

Recalling further Human Rights Council resolutions 17/23 of 17 June 2011, 19/36 of 23 March 2012, 22/12 of 21 March 2013, 25/9 of 27 March 2014, 28/5 of 26 March 2015 and 31/22 of 24 March 2016,

Recalling that human rights, as recognized in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International

Covenant on Economic, Social and Cultural Rights, are universal, indivisible, interrelated and interdependent,

Reaffirming the commitments of States parties to the United Nations Convention against Corruption thereunder, recognizing that the Convention is aimed at promoting and strengthening measures to prevent and combat corruption more efficiently and effectively, and that the return of assets is one of the objectives and a fundamental principle of the Convention,

Reaffirming also that all peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law, and that in no case may a people be deprived of its own means of subsistence,

Recognizing that respect for and adherence to the principles of transparency, accountability and participation are critical factors in ensuring use of returned illicit funds,

Recognizing also that fighting corruption at all levels is a priority and that flows of funds of illicit origin deprive countries of resources required to progressively realize human rights, including economic, social and cultural rights, and in particular the right to development, in such a way that threatens the stability and sustainable development of States, undermines the values of democracy, the rule of law and morality and jeopardizes social, economic and political development,

Recalling the United Nations Convention against Corruption, underlining its central role in fostering international cooperation to combat corruption and to facilitate the return of the proceeds of corruption-related crimes, and stressing the need for universal adherence to the Convention and for its full implementation, and the full implementation of the resolutions and decisions of the Conference of the States Parties to the Convention,

Recalling also that the United Nations Convention against Corruption underlines that States parties should not decline to render mutual legal assistance, pursuant to the Convention, including on the ground of bank secrecy, and in accordance with the domestic law of the requested State,

Concerned that the relative amount of wealth from developing countries held abroad is much greater than that from developed countries, and that a significant amount of that wealth held offshore may involve illicit funds,

Welcoming the adoption by the General Assembly of the 2030 Agenda for Sustainable Development,[1] and the inclusion therein of targets 16.4, 16.5, 16.6 and 16.10, which underline the commitment of States to significantly reduce by 2030 illicit financial and arms flows, to strengthen the recovery and return of stolen assets and to combat all forms of organized crime, to substantially reduce corruption and bribery in all their forms and to develop effective, accountable and transparent institutions at all levels, and to ensure public access to information and to protect fundamental freedoms, as implementing these targets will contribute to the enjoyment of all human rights, in particular economic, social and cultural rights,

Welcoming also the adoption by the Third International Conference on Financing for Development, held in Addis Ababa in July 2015, of the Addis Ababa Action Agenda,[2]

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[1] General Assembly resolution 70/1.

[2] General Assembly resolution 69/313.

which underlined, in particular, that measures to curb illicit financial flows will be integral to achieving sustainable development,

Welcoming further the convening of the experts meeting on the issue of the negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, pursuant to Human Rights Council resolution 28/5,

Noting the work carried out by different United Nations bodies, including the United Nations Office on Drugs and Crime, and international and regional organizations in preventing and combating all forms of corruption,

Bearing in mind that the prevention and eradication of corruption is a responsibility of all States, and that States should cooperate with one another, in accordance with the United Nations Convention against Corruption, with the support and full involvement of other stakeholders,

Bearing in mind also that, in accordance with the requirements of the United Nations Convention against Corruption, those who engage in corrupt acts, whether natural or legal persons, should be held accountable and prosecuted by the competent authorities, and that all efforts should be made to conduct a financial investigation into assets illegally acquired by them and to recover such assets through domestic confiscation proceedings, international cooperation for purposes of confiscation and appropriate recovery measures,

Encouraging all relevant United Nations mechanisms to continue their consideration of the negative impact of illicit financial flows on the enjoyment of human rights, to further explore policy responses to the phenomenon and to coordinate their efforts in this regard,

Recognizing that strong and efficient domestic legal systems are essential in preventing and combating corrupt practices and the transfer of assets of illicit origin and in returning such assets, and recalling that the fight against all forms of corruption requires strong institutions at all levels, including at the local level, able to take efficient preventive and law enforcement measures consistent with the United Nations Convention against Corruption, in particular chapters II and III thereof,

Appreciating the continued efforts of the Conference of the States Parties to the United Nations Convention against Corruption, through its various intergovernmental working groups, to oversee the review process of the implementation of the Convention, to advise on the provision of technical assistance for building institutional and human capacity of States parties for the prevention of corruption, and to enhance international cooperation, including in the return of the proceeds of crime,

Noting with appreciation the Lausanne process initiative on practical guidelines for effective asset recovery, developed by 30 States parties in close collaboration with the International Centre for Asset Recovery of the Basel Institute on Governance, with the support of the Stolen Asset Recovery Initiative of the World Bank and the United Nations Office on Drugs and Crime, which are aimed at providing effective and coordinated approaches to asset recovery for practitioners from requesting and requested States,

Affirming the responsibilities of requesting and requested States in the return of the proceeds of crime, confirms that requesting States must seek return as part of their duty to ensure the application of the maximum available resources to the full realization of all human rights for all, including the right to development, address human rights violations and combat impunity, and that requested States, on the other hand, have a duty to assist and facilitate the return of the proceeds of crime, including through judicial assistance, as part of their obligations of international cooperation and assistance under chapters IV and V of the United Nations Convention against Corruption and in the field of human rights,

Recalling that the repatriation of funds of illicit origin requires the close and transparent coordination and cooperation of requesting and requested States, including between competent authorities, in particular the judicial authorities, within the shared responsibility to facilitate efficient international cooperation for the prompt recovery of assets of illicit origin,

Concerned at the challenges and difficulties that both requested and requesting States face in the return of the proceeds of crime, owing to, inter alia, differences in legal systems, the complexity of multijurisdictional investigations and prosecutions, lack of familiarity with the mutual legal assistance procedures of other States and difficulties in identifying the flow of funds of illicit origin, noting the particular challenges in recovering them in cases involving individuals who are or have been entrusted with prominent public functions and their family members and close associates, and recognizing that legal difficulties are often exacerbated by factual and institutional obstacles, and noting also the difficulties of providing information establishing a link between the proceeds of corruption in the requested State and the crime committed in the requesting State, which in many cases may be difficult to prove,

Asserting the urgent need to repatriate illicit funds to the countries of origin without conditionalities, in accordance with the United Nations Convention against Corruption and the relevant resolutions of the Conference of the State Parties, as well as the commitments made at the 2005 World Summit and the 2010 high-level plenary meeting of the General Assembly on the Millennium Development Goals to make the fight against corruption a priority at all levels and to curb the illicit transfer of funds, and urging all States to step up their efforts to trace, freeze and recover those funds,

Noting the particular concern of developing countries and countries with economies in transition regarding the need to return assets of illicit origin derived from corruption, in particular to countries from which they originated, consistent with the principles of the United Nations Convention against Corruption, in particular chapter V thereto, so as to enable countries to design and fund development projects in accordance with their national priorities in view of the importance that such assets can have to their sustainable development,

1. *Takes note* of the report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, focusing on labour rights in the context of economic reform and austerity measures,[3] prepared pursuant to Human Rights Council resolution 25/16;

2. *Also takes note* of the final study on illicit financial flows, human rights and the 2030 Agenda for Sustainable Development prepared by the Independent Expert;[4]

3. *Welcomes* the report of the High-level Panel on Illicit Financial Flows from Africa, which highlighted the gravity of the problem of illicit financial flows in the continent, ranging from $50 billion to $60 billion a year;

4. *Calls upon* all States that have not yet acceded to the United Nations Convention against Corruption to consider doing so as a matter of priority;

5. *Urges* requesting and requested States to cooperate to recover the proceeds of corruption, in particular embezzled public funds, stolen assets and unaccounted-for assets, including those that are found in safe havens, and to demonstrate strong commitment to

[3] A/HRC/31/60.
[4] A/HRC/31/61.

ensuring the return or disposal of such assets, including their return to the countries of origin, to their prior legitimate owners or to the victims of the crime;

6. *Calls upon* all States to consider enacting legislation to address offences by business enterprises, including multinational corporations, that deprive Governments of legitimate domestic sources of revenue for the implementation of their development agendas, in compliance with their international obligations, including international human rights law;

7. *Also calls upon* all States to seek to reduce opportunities for tax avoidance, to consider inserting anti-abuse clauses in all tax treaties and to enhance disclosure practices and transparency in both source and destination countries, including by seeking to ensure transparency in all financial transactions between Governments and companies to relevant tax authorities;

8. *Asserts* the urgent need to return the proceeds of crime to the requesting countries without conditionalities, in accordance with the United Nations Convention against Corruption and with due process, to strive to eliminate safe havens that create incentives for transfer abroad of stolen assets and illicit financial flows, and to strengthen regulatory frameworks at all levels;

9. *Encourages* requested State parties to respond to requests for assistance and to consider adopting such measures as may be necessary to enable them to provide a wider scope of assistance, pursuant to article 46 of the United Nations Convention against Corruption, in the absence of dual criminality;

10. *Calls upon* all States to consider waiving or reducing to the barest minimum reasonable expenses deducted when recovering assets, particularly when the requesting State is a developing country, bearing in mind that the return of illicitly acquired assets contributes to the achievement of the Sustainable Development Goals;

11. *Reiterates* the importance of full compliance with international human rights law in relation to the return of proceeds of crime, in particular due process rights in criminal or civil law matters against persons presumed to be responsible for corruption, tax evasion or other related criminal conduct and with respect to freezing and forfeiture;

12. *Invites* the Conference of the States Parties to the United Nations Convention against Corruption to consider ways of adopting a human rights-based approach in the implementation of the Convention, including when dealing with the return of the proceeds of crime, and appreciates the continued efforts of the Open-ended Intergovernmental Working Group on Asset Recovery of the Conference to assist States parties in fulfilling their obligations under the Convention to prevent, detect and deter in a more effective manner the international transfer of the proceeds of crime and to strengthen international cooperation in asset recovery;

13. *Notes with appreciation* the Stolen Assets Recovery Initiative of the World Bank Group and the United Nations Office on Drugs and Crime, and encourages coordination among existing initiatives;

14. *Notes* the importance of the International Monetary Fund and the World Bank publishing estimates of the volume and composition of illicit financial flows on an annual basis to monitor progress in implementing target 16.4 of the Sustainable Development Goals on illicit financial flows;

15. *Calls upon* States to continue to consider the establishment of an intergovernmental working group on the negative impact of illicit financial flows on the enjoyment of human rights, and to explore further policy responses to the phenomenon;

16. *Realizes* that, while illicit financial outflows from the least developed countries may account for only a small portion of all outflows of funds of illicit origin worldwide, they have a particularly negative impact on social development and the realization of social, economic and cultural rights in these countries, given the size of their economies;

17. *Underscores* that the repatriation of funds of illicit origin is key for States that are undergoing a democratization and reform process and for improving the realization of economic, social and cultural rights, including the right to development, and for fulfilling their obligation to meet the legitimate aspirations of their peoples;

18. *Acknowledges* the important role that civil society can play in exposing corruption and drawing attention to the negative impact of the non-repatriation of funds of illicit origin on the rule of law and the realization of economic, social and cultural rights, and reiterates in this context the obligation of States to protect reporting persons in accordance with article 33 of the United Nations Convention against Corruption and the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms;

19. *Welcomes* national initiatives to adopt anti-money-laundering legislation as an important step in the fight against corruption and the willingness demonstrated by some States to cooperate in facilitating the return of the proceeds of crime, and calls for more robust regulations in this regard, including through the implementation of policies aimed at reducing the flow of the proceeds of crime, ensuring their return and the provision of technical assistance to developing countries;

20. *Encourages* all States to share best practices in the freezing and recovery of funds of illicit origin;

21. *Calls for* further international cooperation through, inter alia, the United Nations system, in support of national, subregional and regional efforts to prevent and combat corrupt practices and the transfer of assets of illicit origin, in accordance with the principles of the United Nations Convention against Corruption, and in this regard encourages close cooperation at the national and international levels between anti-corruption agencies, law enforcement agencies and financial intelligence units;

22. *Calls upon* all States requested to repatriate funds of illicit origin to uphold fully their commitment to make the fight against corruption a priority at all levels and to curb the illicit transfer of funds, in accordance with the United Nations Convention against Corruption, and to make every effort to achieve the repatriation of funds of illicit origin to the requesting States in order to diminish the negative impact of non-repatriation, including on the enjoyment of human rights, in particular economic, social and cultural rights, in the countries of origin by, inter alia, lowering the barriers imposed on requiring jurisdictions at the tracing stage and enhancing cooperation in this regard between competent agencies, in particular taking into account the risks of dissipation of those funds and, where appropriate, by delinking confiscation measures from a requirement of conviction in the country of origin;

23. *Calls upon* all States requesting the repatriation of funds of illicit origin to uphold fully their commitment to make the fight against corruption a priority at all levels and to curb the illicit transfer of funds, and to apply the principles of accountability, transparency and participation in the decision-making process regarding the allocation of repatriated funds to the realization of economic, social and cultural rights in order to improve prevention and detection procedures, correct identified weaknesses or mismanagement, prevent impunity, provide effective remedies directed at creating conditions for avoiding new human rights violations and improve the overall administration of justice;

24. *Reaffirms* that it is the obligation of the State to investigate and prosecute corruption, calls upon all States to strengthen criminal proceedings directed at freezing or restraining funds of illicit origin, and encourages requesting States to ensure that adequate national investigative procedures have been initiated and substantiated for the purpose of presenting mutual legal assistance requests, and in this context encourages requested States to provide information on legal frameworks and procedures to the requesting State and to remove barriers to asset recovery, including by simplifying their legal procedures;

25. *Underlines* that there is also a corporate responsibility to comply with and respect all applicable laws and human rights, and a need for greater access to effective remedies by victims in order to realize effective prevention of, and remedy for, business-related human rights harm, as set out in the Guiding Principles on Business and Human Rights;

26. *Calls upon* requesting and requested States with practical experience in asset recovery to develop, as appropriate, in cooperation with interested States and providers of technical assistance, non-binding practical guidelines, such as a step-by-step guide for efficient asset recovery, with a view to enhancing effective approaches to asset recovery based on best practices, practical experience and the lessons learned from past cases, while being mindful to seek to add value by building upon existing work in this area through innovative and efficient means;

27. *Encourages* States parties to consider, where appropriate, and in accordance with national law, the opportunity of referring to the draft Lausanne guidelines for efficient recovery of stolen assets in their practice, and any other relevant instruments,

28. *Stresses* the need for transparency in financial institutions and effective due diligence measures to be applied by financial intermediaries, calls upon States to seek appropriate means in accordance with their international obligations to ensure the cooperation and responsiveness of financial institutions to foreign requests to freeze and recover funds of illicit origin and the provision of an efficient mutual legal assistance regime to States requesting repatriation of those funds, and encourages the promotion of human and institutional capacity-building in that regard;

29. *Recalls* the importance of the Implementation Review Mechanism of the United Nations Convention against Corruption, and urges States parties to comply with their obligations in the conduct of country reviews to enhance effective implementation of the Convention as a preventive measure for the outflow of illicit financial flows;

30. *Welcomes* the work undertaken by the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, and requests him to continue to consider the impact of illicit financial flows on the enjoyment of human rights as part of the mandate;

31. *Requests* the Human Rights Council Advisory Committee to conduct a study, in continuation of the study requested by the Human Rights Council in its resolution 31/22, on the possibility of utilizing non-repatriated illicit funds, including through monetization and/or the establishment of investment funds, while completing the necessary legal procedures, and in accordance with national priorities, with view to supporting the achievement of the Goals of the 2030 Agenda for Sustainable Development, contributing to the enhancement of the promotion of human rights and in accordance with obligations under international human rights law, and to submit the requested study to the Council at its thirty-ninth session;

32. *Also requests* the Advisory Committee to seek, if necessary, further views and the input of Member States, relevant international and regional organizations, United

Nations bodies, including the United Nations Office on Drugs and Crime, national human rights institutions and non-governmental organizations in order to finalize the above-mentioned study;

33. *Requests* the United Nations High Commissioner for Human Rights to provide all assistance and financial resources necessary to allow the Independent Expert to carry out the mandate set out in the present resolution, and calls upon all relevant stakeholders, including States and United Nations bodies and agencies, and other international and regional entities to cooperate fully with the Independent Expert in this regard;

34. *Requests* the Secretary-General to bring the present resolution to the attention of all Member States and the forums dealing with the issue of the repatriation of funds of illicit origin within the United Nations system for consideration and necessary action and coordination as appropriate, particularly within the context of the Conference of the States Parties to the United Nations Convention against Corruption;

35. *Decides* to continue its consideration of this matter under the same agenda item.

56th meeting
23 March 2017

[Adopted by a recorded vote of 30 to 1, with 16 abstentions. The voting was as follows:

In favour:

Bangladesh, Bolivia (Plurinational State of), Botswana, Brazil, Burundi, China, Congo, Côte d'Ivoire, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Ghana, India, Indonesia, Iraq, Kenya, Kyrgyzstan, Mongolia, Nigeria, Philippines, Qatar, Rwanda, Saudi Arabia, South Africa, Togo, Tunisia, United Arab Emirates, Venezuela (Bolivarian Republic of)

Against:

United States of America

Abstaining:

Albania, Belgium, Croatia, Georgia, Germany, Hungary, Japan, Latvia, Netherlands, Panama, Paraguay, Portugal, Republic of Korea, Slovenia, Switzerland, United Kingdom of Great Britain and Northern Ireland]